

Discussion Paper

Global Battery Alliance,

Davos, January 2020

GBA's Battery Roadmap from August 2019 estimates that "over the next decade ... global battery demand will grow more than 14 times current levels, reaching 2,600 GWh, the equivalent to 45 million typical electric vehicles." Ninety percent of this rising battery demand will come from electric mobility, and it will likely result in the demand for cobalt increasing fourfold by 2030. Cobalt is an essential battery component in lithium-ion batteries powering phones, laptops, and electric vehicles. Its properties prevent overheating and it can store and transfer more energy than other metals.

Nearly 70% of the cobalt being mined today comes from the Democratic Republic of Congo (DRC), specifically from the copper- and cobalt-rich region of Katanga. The DRC is a country of 84 million, and since the 1960s, it has suffered from a series of violent regional conflicts that have resulted directly and indirectly in more than five million deaths.¹ Many of these violent conflicts revolved around competing claims for the country's natural resources, especially precious minerals. During this period, eight other African governments and a range of armed militias have been involved in these conflicts, which have steadily weakened the DRC's central government. The Council of Foreign Relations Global Conflict Tracker lists as its current main concerns for the DRC "weak governance and the prevalence of many armed groups [that] have subjected Congolese civilians to widespread rape and sexual violence, massive human rights violations, and extreme poverty."²

One manifestation of this weak governance has been corruption. According to Transparency International's corruption perception index, the DRC is 161st out of 180 countries in the world. The UN Human Development Index ranks the DRC 176th out of 189 countries, and the UNDP estimates that 90.5% of those employed make less than \$3.10 per day.³ Last year, a new central government was formed headed by Felix Tshisekedi, who was elected as a reform candidate. It is still too early to

¹ 'War in Congo kills 45,000 people each month', *The Guardian*, (23 January 2008).

² 'Violence in the Democratic Republic of Congo', *Global Conflict Tracker*, <https://www.cfr.org/interactive/global-conflict-tracker/conflict/violence-democratic-republic-congo>, (accessed 15 January 2020).

³ UNDP, Human Development Reports, 'Table 1. Human Development Index and its components', <http://hdr.undp.org/en/composite/HDI> (accessed 7 August 2019) and 'Congo: Human Development Indicators', <http://hdr.undp.org/en/countries/profiles/COD> (accessed 7 August 2019).

determine the extent to which he can enact meaningful reforms and greater governmental oversight and regulatory capacity.⁴

In 2012, UNICEF reported that there were 40,000 children working in artisanal mines in southern Katanga, while the US Department of State reported in 2019 that 40% of Katanga's miners were children who worked under the same dangerous conditions as adults.⁵ The US Department of Labor 2017 findings on the Worst Forms of Child Labor stated that 36% of Congolese children between the ages of five and 14 were employed, often in mining activities.⁶ However, ascertaining the number of children (or people in general) involved in mining activities in the DRC is very difficult as local communities switch back and forth between other sources of income and mining, depending on which activity generates a higher income. This "swing capacity" is closely connected to global cobalt prices. The expected increase in cobalt demand will also further drive up the risks of child labor.

Over 20% of the current cobalt production in the DRC comes from artisanal and small-scale mining (ASM), a term that refers to mining by individuals using their hands or basic tools. ASM is legal in the DRC, yet largely unregulated. It represents a key source of income for an estimated 200,000 miners in Katanga, with about 1.2 million people dependent on this income. Despite the significance of this activity, it poses risks to the population, especially children.

Child miners work under hazardous conditions and risk their lives to earn two or three US dollars per day. A lawsuit filed in the US in December 2019 against Apple, Dell, Google, Microsoft, and Tesla charges that the existing cobalt supply chain "benefits from child labor for higher profits".⁷ An Amnesty International report in 2016 generated international media attention to human rights issues including child labor and the health and safety risks in the cobalt supply chain in the DRC. It documented children as young as seven working in life-threatening conditions and called on companies "to mitigate and take corrective actions for the victims".⁸ Child labor extends beyond ASM sites. An OECD report published in November 2019 highlighted the interconnected nature of Large-Scale Mining (LSM) and ASM, confirming that a substantial amount of informal ASM production takes place in privately owned LSM concessions.

In the face of growing demand for cobalt, its significant presence in the DRC, and the chronic instability in the country, companies that rely on Congolese cobalt need to come together to address the challenges and commit to responsible sourcing models. While some companies operating in the DRC have introduced projects to formalize ASM operations in their concessions, more companies that trade in or purchase cobalt must invest considerably greater resources to develop these models, and especially to address the serious problems of child labor in the DRC's artisanal mining practices.

⁴ United Nations, Security Council, With New President Pledging Reform, Democratic Republic of Congo Making Gains amid Fresh Violence in East, Mission Chief Tells Security Council, SC/13897, 24 July 2019, <https://www.un.org/press/en/2019/sc13897.doc.htm>.

⁵ UNICEF, 'In DR Congo, UNICEF supports efforts to help child labourers return to school', 13 June 2012, https://www.unicef.org/childsurvival/drcongo_62627.html (accessed 13 August 2019); US Department of State, '2018 Country Reports on Human Rights Practices: Democratic Republic of the Congo', 13 March 2019.

⁶ US Department of Labor, Bureau of International Labor Affairs, Child Labor and Forced Labor Reports, '2017 Findings on the Worst Forms of Child Labor', <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/congo-democratic-republic-drc> (accessed 19 August 2019).

⁷ *Doe 1 et al v. Apple Inc. et al*, No. 1:19-cv-03737 (D.D.C., 15 December 2019).

⁸ Amnesty International, 'This is What We Die For: Human Rights Abuses in the Democratic Republic of Congo Power the Global Trade in Cobalt', (London, 2016).

Last summer, the Geneva Center for Business and Human Rights and the NYU Stern Center for Business and Human Rights began to examine these issues. In September, Prof. Dorothée Baumann-Pauly, who directs the Geneva Center and is affiliated with NYU Stern, visited the two largest active cobalt formalization projects on LSM sites in Kolwezi: Mutoshi (Chemaf/Trafigura) and Kasulo (Huayou Cobalt). Based on Prof. Baumann-Pauly's visit and related research, we offer these premises and recommendations:

Key Premises

- 1. ASM production constitutes more than 20% of total cobalt production. Human rights risks, including child labor, are elevated in ASM operations. Therefore, any efforts to develop responsible sourcing practices need to focus primarily on ASM operations, both on ASM sites and for ASM activities that take place at industrial LSM concessions.** ASM is often the sole form of livelihood for those residing in local communities who live in extreme poverty. Companies sourcing cobalt from the Congo must implement sustainable sourcing strategies that formalize ASM operations by including artisanal miners in their mining operations and create decent workplaces. Formalization of ASM sites will require a range of actions including: (1) fencing off mining sites with access controls that exclude pregnant women, children, and miners under the influence of drugs or alcohol; (2) introducing safety measures as well as the mechanical preparation of open pits that do not require tunnel constructions; and (3) involving an independent cooperative of artisanal miners to oversee the implementation of safety standards and negotiations with the mining company.
- 2. Formalization of ASM practices is an essential step to address the widespread human rights problems at the mining sites. The jobs and income created on formalized ASM sites can also help address extreme poverty levels in communities as a root cause of child labor.** Formalization of ASM will produce a number of social and economic benefits for local communities: (1) creating stable employment for adults which will eliminate the need for extra income from child labor and provide funds for school fees, (2) ensuring safer working conditions and reducing the number of accidents through capacity and skill building trainings for miners, (3) achieving higher productivity levels and generating higher income for miners as a result of better organized operations and more competent workforces, (4) promoting female employment and diversity in mining operations, (5) improving the health of miners and community members, (6) creating new business opportunities in response to higher output levels and higher demand for goods and services, and (7) ensuring effective and transparent representation of miners' working rights through the formation of cooperatives.
- 3. Formalization will also require the development of industry standards, performance metrics, and implementation mechanisms.** Currently there is an absence of such standards for ASM formalization and corresponding monitoring schemes and verification models. This significantly hampers the market acceptance of formalized ASM product.
- 4. In addition to the formalization of ASM sites, it will be important to develop initiatives with the DRC government, with supplemental funding from the international community, to build and**

support schools and daycare facilities, and to provide other resources for children in these communities. One model for this was the collective efforts undertaken by FIFA, football manufacturers, international financial institutions, and Western governments, working with the government of Pakistan, to address chronic child labor in Sialkot, Pakistan in the 1990s.⁹

Recommendations for the Global Battery Alliance

1. Promotion of formalization.

In line with its Vision 2030 recommendation to improve conditions in ASM sites, the GBA should endorse the formalization of ASM sites among its members, as an essential component of cobalt mining and a complement to LSM concessions. The GBA should establish a multi-stakeholder working group whose mandate is to create a formalized system to oversee ASM as part of cobalt production at all sites in the DRC.

2. The need for common standards and metrics

Because of its multi-stakeholder structure, the GBA is an ideal platform to develop common standards for ASM formalization and metrics to evaluate compliance with them. These standards would help to clarify the expectations for ASM formalization and monitoring and would help to increase the acceptance of ASM product in the market.

3. Shared knowledge and responsibility.

The challenges in the DRC are too great for any single actor to take on alone. As a multi-stakeholder platform, the GBA can help to pool knowledge and resources among companies and other stakeholders to help address child labor and other systemic human rights issues in the cobalt supply chain. For example, GBA members could help to initiate a discussion with governments and international financial institutions, as well as the government of the DRC, on how best to ensure access to education and other social benefits for children living in mining communities.

Contact Information:

Michael Posner
NYU Stern Center for Business and Human Rights
44 West 4th Street, 8th Floor
New York, NY 10012
Email: mposner@stern.nyu.edu
Phone: +1 (212) 9980993

Dorothee Baumann-Pauly
Geneva Center for Business and Human Rights
Uni Mail 40
Blvd du Pont-d'Arve, 1211 Geneva
Email: gsem-gcbhr@unige.ch
Phone: +41 764391578

⁹ Zafar U. Ahmed and Sabine Becker, 'Elimination of Child Labor in the Soccer Ball Industry in Sialkot, Pakistan, November 1997 – September 1999' (ILO Evaluation Report, 1999).